

IN RE: PETITION FOR VARIANCE  
W/S Gunpowder Road, 2700' NE  
of the c/l of Falls Road  
(18122 Gunpowder Road)  
5th Election District  
3rd Councilmanic District

Joseph Gier  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 95-302-A  
\*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 18122 Gunpowder Road, located in the area north of Armacost in Hampstead. The Petition was filed by the owner of the property, Joseph Gier, and the Contract Lessee, Katherine Potter, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners seek relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 12' x 12' shed to be located in the front yard in lieu of the required rear yard, a barn, 24' x 36', to be located in the front yard in lieu of the required rear yard with a height of 18 feet in lieu of the maximum permitted 15 feet, and to permit a side yard setback of 0 feet in lieu of the minimum required 2.5 feet for said barn. The Petitioners also seek relief from Section 427 of the B.C.Z.R. to permit an existing fence of 48" to 54" in height to be located on or near the south property line in lieu of the required 10' to 20' setback. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Joseph Gier, property owner, Katherine Potter and Stuart Thrasher, Contract Purchasers, Paul Lee, Professional Engineer who prepared the site plan, and

MICROFILMED

ORDER RECEIVED FOR FILING  
Date 5/9/95  
By [Signature]

Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Appearing as a Protestant in the matter was Mr. David Cleveland, a nearby resident of the area.

At the outset of the hearing, Mr. Paul Lee requested that the variance for the existing shed be withdrawn as the Petitioners intended to remove the shed and the variance was no longer necessary. The Petition and site plan were amended accordingly and the hearing on the remaining variance requests then proceeded.

Testimony and evidence offered revealed that the subject property consists of 3.1854 acres, more or less, zoned R.C. 4 and is improved with a one-story single family dwelling. In addition to the dwelling, a partially constructed 24' x 36' barn exists in the front yard. This barn was constructed on the south side property line towards the front of the property and will have a height of 18 feet upon completion. Finally, a wood fence exists in the front of the property, encompassing the entire front yard. This fence runs across the front of the dwelling and down the north side property line adjacent to the macadam driveway, across the front property line at Gunpowder Road, and back along the south property line to its beginning. The fence is roughly 48" to 54" in height. In addition to these improvements, a 12' x 12' shed exists on the property. As noted above, the Petitioners intend to remove this shed and thus, the variance requested for this particular structure is no longer necessary.

As to the remaining requests for variance, testimony revealed that the Petitioner entered into a contract to lease the subject property to a tenant who had the option of buying same at a later date. While the tenant resided on the property, he erected the fence and began construction of the subject barn. Shortly after he commenced construction, Mr.

ORDER RECEIVED FOR FILING

Date

By

David Cleveland, who resides nearby at 18126 Gunpowder Road, filed a complaint as to the location of the barn, and subsequently, the tenant moved out of the property. In February, 1995, the Petitioner entered into a Contract of Sale with Katherine Potter and Stuart Thrasher. The Contract Purchasers wish to complete construction of the barn which they intend to use for bee-keeping and for the storage of lawn and garden tools. On behalf of the Petitioners, Mr. Paul Lee testified that the subject property is rectangular in shape, approximately 900 feet deep and 150 feet wide along Gunpowder Road. He stated that due to the topography of the land and certain rock outcroppings that exist in the rear yard, the front yard location is the most practical for the subject barn. Mr. Lee testified that the elevation of the property changes from approximately 555 feet at Gunpowder Road to a ridge on which the house sits at an elevation of approximately 625 feet. Entered into evidence as Petitioner's Exhibit 3, is a topographical map of the property depicting the elevation changes of this lot. Mr. Lee also testified that the septic reserve area for this lot is located in the front yard which further restricts the location of the barn. Testimony indicated that the barn has been situated in an area where the property is fairly level and in what the Petitioners believe is the most practical location. Further testimony revealed that the barn is located on the property line farthest removed from the Protestant's property, which is actually two doors away from this site. It should also be noted that the former tenant attempted to construct this barn without the benefit of an approved building permit from Baltimore County. Following receipt of the complaint filed by Mr. Cleveland, the Petitioner was advised to file the instant Petition to legitimize existing conditions on the property.

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Date

By

Testifying in opposition to the relief requested was Mr. David Cleveland, who resides north of the subject site at 18126 Gunpowder Road. Mr. Cleveland is not opposed to the fence height or location of same, and stated that the fence is attractive and has a positive effect on the property. Mr. Cleveland was also pleased to see that the Petitioners intend to remove the shed and no longer seek a variance for same. However, he is opposed to the subject barn being located in the front yard as shown on the site plan. He testified that this barn is visible from his property and he objects to its obstruction of his view. Mr. Cleveland believes the barn should be moved further back on the property, preferably to the rear yard, and that a better location could be found for this barn. Further testimony revealed that Mr. Cleveland's home also sits atop the ridge that exists in this area and that this affords him the ability to see this barn, while the barn is not visible to motorists travelling along Gunpowder Road. Given the steep grade of land in this vicinity, it is true that the barn is visible to neighbors located north of the subject site.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

ORDER RECEIVED FOR FILING

Date

By

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28  
(1974).

After due consideration of the testimony and evidence presented, I am inclined to grant the relief requested. It appears that the location of the subject barn is the most practical, given the topography of the land and the location of existing improvements thereon. While Mr. Cleveland argued that he could see the barn from his home, I am not persuaded to deny the variance on this basis alone. To require strict compliance with the zoning regulations would result in practical difficulty and unreasonable hardship for the Petitioners and unduly restrict the use of the land. In the opinion of this Deputy Zoning Commissioner, the relief requested will not cause any injury to the public health, safety or general welfare and meets the spirit and intent of the B.C.Z.R.


Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9<sup>th</sup> day of May, 1995 that the Petition for Variance seeking relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 24' x 36' barn with a height of 18 feet to be located in the front yard on the side property line with a 0 side yard setback in lieu of the required rear yard location, maximum height of 15 feet, and minimum side yard setback of 2.5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 427 of the B.C.Z.R. to permit an existing fence of 48" to 54" in height to be located on or near the south property line in lieu

of the required 10' to 20' setback, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Inasmuch as the Petitioners withdrew their request for variance for the 12' x 12' shed, said shed shall be removed from the premises within sixty (60) days of the date of this Order.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING  
Date 5/19/95  
By [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

May 9, 1995

Francis X. Borgerding, Jr., Esquire  
409 Washington Avenue, Suite 600  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
W/S Gunpowder Road, 2700' NE of the c/l of Falls Road  
(18122 Gunpowder Road)  
5th Election District - 3rd Councilmanic District  
Joseph Gier - Petitioner  
Case No. 95-302-A

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Timothy Kotroco".

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. Joseph Gier  
18122 Gunpowder Road, Hampstead, Md. 21074

Ms. Katherine Potter  
800 Cedarcroft Road, Baltimore, Md. 21212

People's Counsel

File





# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 18122 Gunpowder Road  
which is presently zoned RC-4

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 & 400.3 of the BCZR to permit an existing 18' high barn (24' X 36' under construction) and shed (12' X 12') to be located in a front yard in lieu of the req'd. rear yard and to permit a 0' S.Y. setback and an 18' height for the barn in lieu of the req'd. 2.5' & 15' (A var. of 2.5 & 3'). **SEE ATTACHED CONTINUATION SHEET**

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- a) Shape and configuration of the property;
- b) Such other and further reasons as shall be presented at the time of hearing in this matter

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Katherine Potter  
(Type or Print Name)

Signature

800 Cedarcroft Road  
Address

Baltimore, MD 21212  
City State Zipcode

Attorney for Petitioner:

Francis X. Borgerding, Jr.  
(Type or Print Name)

Signature

409 Washington Ave., Ste. 600  
Towson, MD 21204 296-6820  
Address Phone No.  
City State Zipcode

Legal Owner(s):

Joseph Gier  
(Type or Print Name)

Signature

(Type or Print Name)

Signature

18122 Gunpowder Road 661-6902  
Address Phone No.

Hampstead MD 21074  
City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Francis X. Borgerding, Jr.  
409 Washington Ave., Ste. 600  
Towson, MD 21204 296-6820  
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING  
unavailable for Hearing

the following dates \_\_\_\_\_ Next Two Months

ALL ☒ OTHER

REVIEWED BY: MSK DATE 3/3/85

ORDER RECEIVED FOR FILING

Date

By





CONTINUATION SHEET

RE: 18122 Gunpowder Road  
RC-4

95-302-A

Petitioner requesting a variance (if necessary) to Sect. 427 of the BCZR to permit an existing fence (48"-54" high) to be located on or near the south property line in lieu of the required 10'-20'.

MICROFILMED

Paul Lee, P.E.

95-302-A

*Paul Lee Engineering Inc.*

*304 W. Pennsylvania Ave.*

*Towson, Maryland 21204*

*410-821-5941*

DESCRIPTION

#18122 GUNPOWDER ROAD ( Lower Beckleysville Road )

ELECTION DISTRICT 5C3 BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the west side of Gunpowder Road ( Lower Beckleysville Road ), said point also being located Northeasterly - 2700'± from the intersection with the center of Falls Road; thence leaving said west side of Gunpowder Road (1) N 62°56'33" W - 889.09', thence (2) N 25°57'07" E - 111.11', thence (3) S 70°32'00" E - 485.00' and (4) S 58°13'18" E - 473.30' to the west side of Gunpowder Road, thence binding on the west side of Gunpowder Road by a curve to the right (5) R = 350.00', L=150.48' to the point of beginning.

Containing 3.1854 acres of land more or less.



# 299

J.O. 95-001

2/7/95

*Engineers — Surveyors — Site Planners*

**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY**  
**Towson, Maryland**

95-302-A

District 5th

Date of Posting 3/18/95

Posted for: Variance

Petitioner: Joseph Gier & Katherine Potter

Location of property: 18122 Gunpowder Rd., w/s

Location of Signs: Facing road way on property being zoned

Remarks: \_\_\_\_\_

Posted by

M. J. Healey

Signature

Date of return:

3/24/95

Number of Signs: 1

10011



## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 115 Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-302-A  
(Item 299)

18122 Gunpowder Road  
W/S Gunpowder Road,  
2700' NE of c/I Falls Road  
6th Election District  
3rd Councilmanic  
Legal Owner(s):

Joseph Gier

Contract Purchaser(s):  
Katherine Potter

Hearing: Wednesday,  
April 5, 1995 at 9:00 a.m.  
in Rm. 106, County Office  
Building.

Variance to permit an existing 18-foot high barn (24 feet x 36 feet under construction) and shed (12 feet x 12 feet) to be located in a front yard in lieu of the required rear yard; to permit a zero foot side yard setback and an 18-foot height for the barn in lieu of the required 2.5 feet and 15 feet; and to permit an existing fence (48 inches x 64 inches high) to be located on or near the south property line in lieu of the required 10 feet x 20 feet.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.

3/227 March 16.

## CERTIFICATE OF PUBLICATION

TOWSON, MD.,

March 17, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on March 16, 1995.

THE JEFFERSONIAN,

A. Henrichson  
LEGAL AD. - TOWSON

Distribution



Baltimore County  
Zoning Administration &  
Development Management  
11 West Chesapeake Avenue  
Towson, Maryland 21204

receipt

95-302-A

Account: R-001-6150

Number

Date 3/2/95

Item In By: 72576

Item Number: 299

Potter, Katherine — 18122 Gunpowder Rd

010 - Var, Res. — \$ 50.00

000 - 1 sign — \$ 35.00

Total — \$ 85.00

RECEIVED

RECEIVED  
RECEIVED

Please Make Checks Payable To: Baltimore County

Cashier Validation



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

**PAYMENT WILL BE MADE AS FOLLOWS:**

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

-----  
For newspaper advertising:

Item No.: 299

Petitioner: Katharine Potter

Location: 18122 Gunpowder Road

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Francis X. Bergerding, Jr.

ADDRESS: 409 Washington Ave, Ste. 600

Towson, MD 21204

PHONE NUMBER: 296-6820

AJ:ggs



Printed on Recycled Paper

WICKRUF-111111

(Revised 04/09/93)

TO: PUTUXENT PUBLISHING COMPANY  
March 16, 1995 Issue - Jeffersonian

Please forward billing to:

Francis X. Borgerding, Jr., Esq.  
409 Washington Avenue, #600  
Towson, Maryland 21204  
296-6820

---

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-302-A (Item 299)  
18122 Gunpowder Road  
W/S Gunpowder Road, 2700' NE of c/l Falls Road  
5th Election District - 3rd Councilmanic  
Legal Owner(s): Joseph Gler  
Contract Purchaser(s): Katherine Potter  
HEARING: WEDNESDAY, APRIL 5, 1995 at 9:00 a.m. in Room 106, County Office Building

Variance to permit an existing 18-foot high barn (24 feet x 36 feet under construction) and shed (12 feet x 12 feet) to be located in a front yard in lieu of the required rear yard; to permit a zero foot side yard setback and an 18-foot height for the barn in lieu of the required 2.5 feet and 15 feet; and to permit an existing fence (48 inches - 54 inches high) to be located on or near the south property line in lieu of the required 10 feet - 20 feet.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

COPIES OF THIS NOTICE  
TO THE PUBLIC

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

March 13, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-302-A (Item 299)

18122 Gunpowder Road

W/S Gunpowder Road, 2700' NE of c/l Falls Road

5th Election District - 3rd Councilmanic

Legal Owner(s): Joseph Gier

Contract Purchaser(s): Katherine Potter

HEARING: WEDNESDAY, APRIL 5, 1995 at 9:00 a.m. in Room 106, County Office Building

Variance to permit an existing 18-foot high barn (24 feet x 36 feet under construction) and shed (12 feet x 12 feet) to be located in a front yard in lieu of the required rear yard; to permit a zero foot side yard setback and an 18-foot height for the barn in lieu of the required 2.5 feet and 15 feet; and to permit an existing fence (48 inches - 54 inches high) to be located on or near the south property line in lieu of the required 10 feet - 20 feet.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: Joseph Gier  
Katherine Potter  
Francis X. Borgerding, Jr., Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

7-10-95





Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

March 28, 1995

Francis X. Borgerding, Esquire  
409 Washington Avenue, Suite 600  
Towson, Maryland 21204

RE: Item No.: 299  
Case No.: 95-302-A  
Petitioner: Joseph Gier

Dear Mr. Borgerding:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on March 3, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in cursive script that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.  
Zoning Supervisor

WCR/jw  
Attachment(s)

RECEIVED





0216.  
**Maryland Department of Transportation**  
**State Highway Administration**

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

3-10-95

Ms. Joyce Watson  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No.: \$ 299 (MSK)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*Bob Small*

*for* Ronald Burns, Chief  
Engineering Access Permits  
Division

BS/

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MICROFILMED

BALTIMORE COUNTY, MARYLAND  
I N T E R O F F I C E   C O R R E S P O N D E N C E

TO:   Arnold Jablon, Director           DATE:   March 20, 1995  
      Zoning Administration and Development Management

FROM: *put* Robert W. Bowling, P.E., Chief  
      Developers Engineering Section

RE:    Zoning Advisory Committee Meeting  
      for March 20, 1995  
      Items 297, 299, 301, 302 and 303

The Developers Engineering Section has reviewed  
the subject zoning item and we have no comments.

RWB:sw

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

TO: ZADM

DATE: 3/20/95

FROM: DEPRM  
Development Coordination

SUBJECT: Zoning Advisory Committee  
Agenda: 3/13/95

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 296  
298  
299 ✓  
300  
301

LS:sp

LETTY2/DEPRM/TXTSBP

Baltimore County Government  
Fire Department



700 East Joppa Road Suite 901  
Towson, MD 21286-5500

(410) 887-4500

DATE: 03/10/95

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF MAR. 13, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time,  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 296, 297, 299, 300,  
301 AND 303.

**RECEIVED**  
MAR 14 1995  
**ZADM**

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Director  
Office of Planning and Zoning

DATE: March 15, 1995

SUBJECT: 18122 Gunpowder Rd.

INFORMATION:

Item Number: 299  
Petitioner: Joseph Gier  
Property Size: 3.18 acres  
Zoning: RC-4  
Requested Action: Variance  
Hearing Date:       /      /      

SUMMARY OF RECOMMENDATIONS:

The applicant requests a Variance to permit an existing 18' high barn and shed to be located in a front yard in lieu of the required rear yard and to permit a 0' sideyard setback and an 18' height for the barn in lieu of the required 2.5 and 15', respectively.

While staff does not oppose the applicant's request, justification of the existence of a hardship or practical difficulty will need to be demonstrated in order to site the accessory structures as indicated on the plat accompanying this Petition.

Prepared by: Jeffrey W. Long

Division Chief: Cary L. Kerns

PK/JL

MICROFILMED

**BALTIMORE COUNTY, MARYLAND**  
**Inter-Office Memorandum**

DATE: March 3, 1995

TO: Hearing Officer

FROM: Mitchell J. Kellman  
Planner II, ZADM

SUBJECT: Item #299  
18122 Gunpowder Road

At the date of filing the owner of the property is Joseph Gier; however, settlement will take place soon in which Katherine Potter may own the property at the time of the variance order.

MJK:scj

1995/03/03 10:00 AM

RE: PETITION FOR VARIANCE	*	BEFORE THE
18122 Gunpowder Road, W/S Gunpowder Road,	*	ZONING COMMISSIONER
2700' NE of c/l Falls Road, 5th	*	OF BALTIMORE COUNTY
Election District, 3rd Councilmanic	*	CASE NO. 95-302-A
Joseph Gier		
Petitioner		
* * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Peter Max Zimmerman*  
 \_\_\_\_\_  
 PETER MAX ZIMMERMAN  
 People's Counsel for Baltimore County

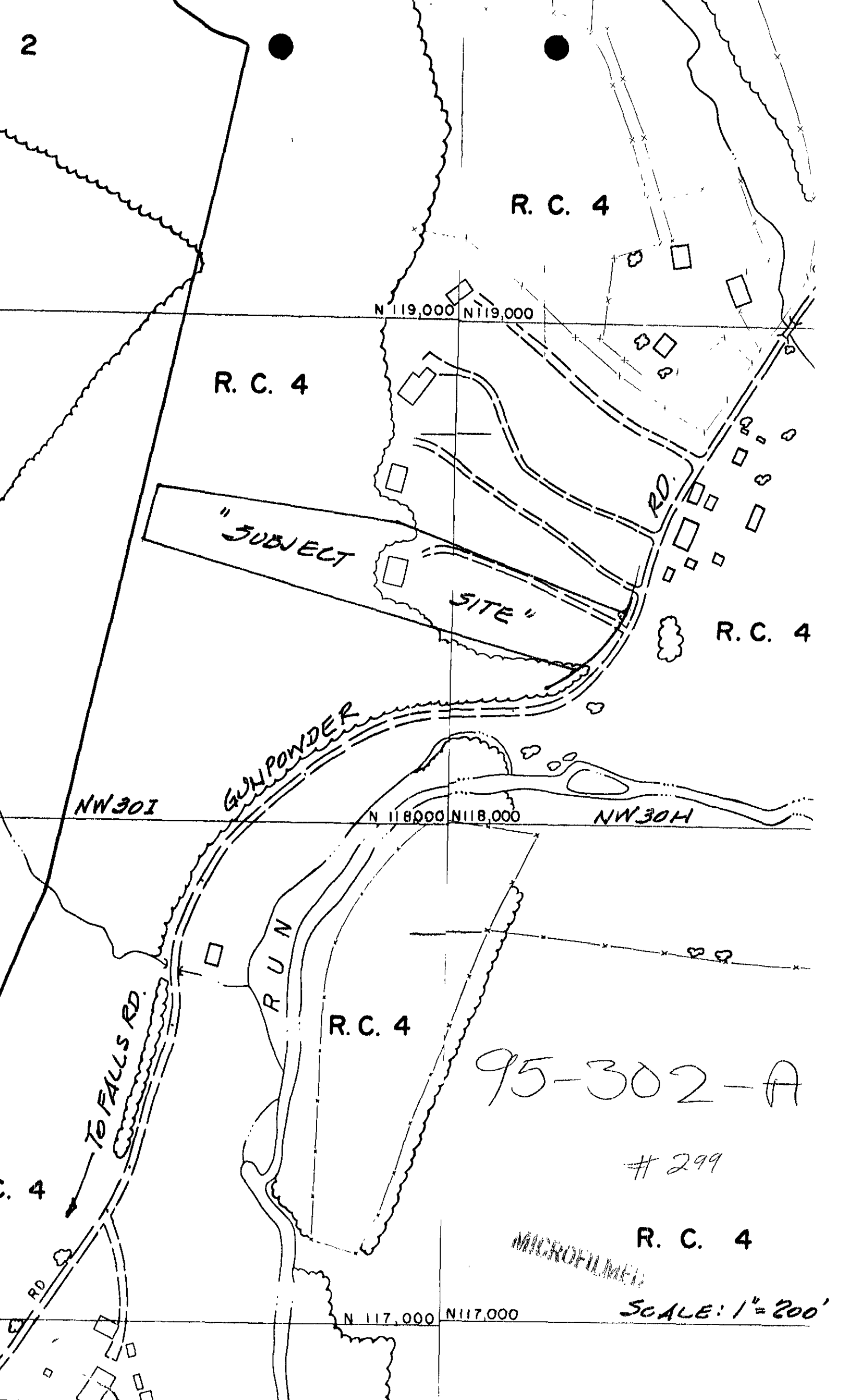
*Carole S. Demilio*  
 \_\_\_\_\_  
 CAROLE S. DEMILIO  
 Deputy People's Counsel  
 Room 47, Courthouse  
 400 Washington Avenue  
 Towson, MD 21204  
 (410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29<sup>th</sup> day of March, 1995, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Esquire, 409 Washington Avenue, Suite 600, Towson, MD 21204, attorney for Petitioners.

*Peter Max Zimmerman*  
 \_\_\_\_\_  
 PETER MAX ZIMMERMAN





R. C. 4

R. C. 4

"SUBJECT SITE"

R. C. 4

NW 301

GUNPOWDER

N 118,000 N 118,000

NW 304

R. C. 4

95-302-A

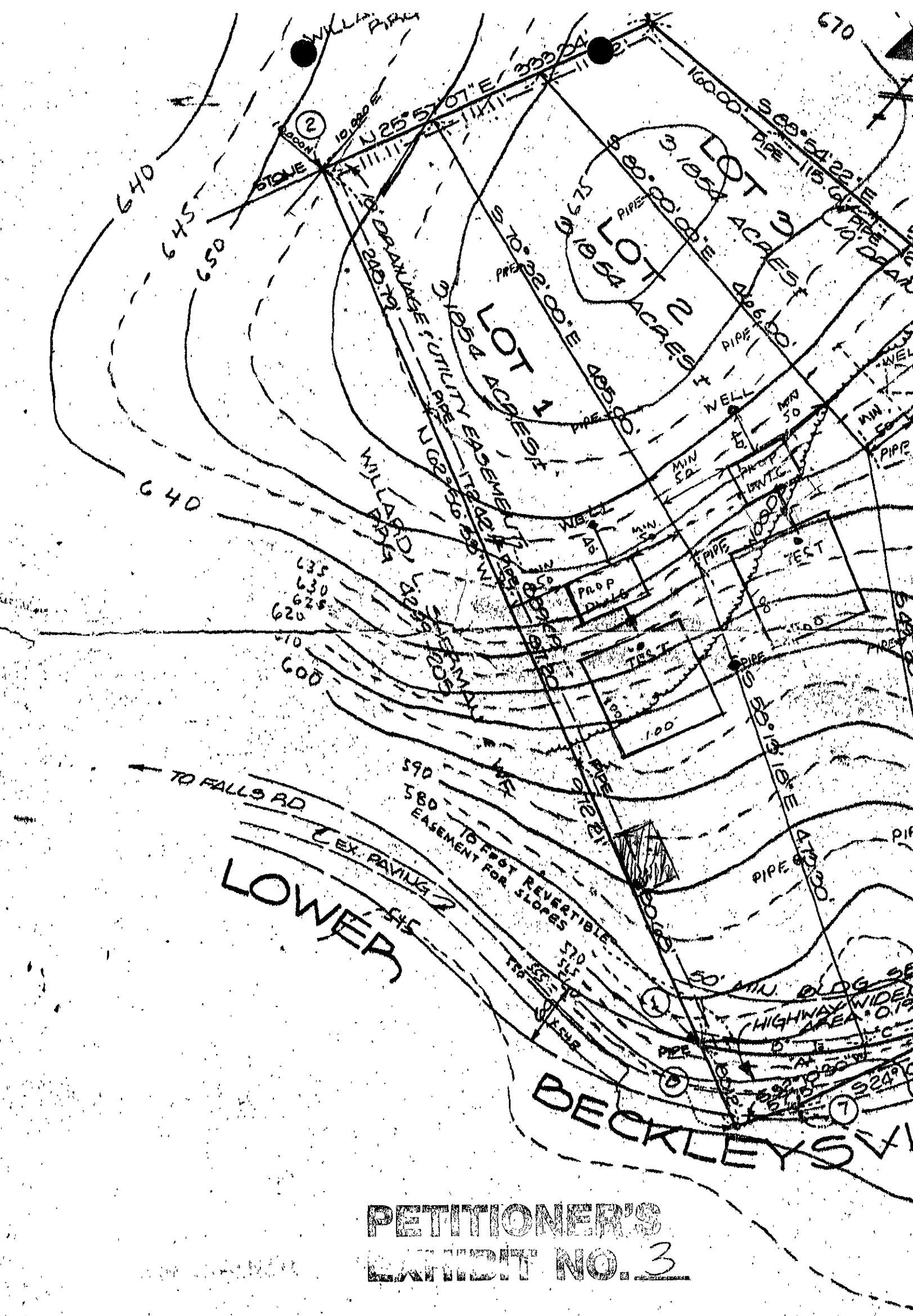
# 299

R. C. 4

MICROFILMED

SCALE: 1" = 200'

N 117,000 N 117,000



NEED REFERENCE E.H.K.JR. 5552-96	
HIGHWAYS DEPARTMENT OF BALTIMORE CO. APPROVED FOR STREET ALIGNMENT & LOCATION	
ROADS ENGINEER	DATE
APPROVED FOR BALTO. CO. HEALTH DEPARTMENT	
OWNER'S CERTIFICATE THE REQUIREMENTS 59 TO 62, ARTICLE 17 CODE OF MARYLAND TITLE: CLERKS OF THE TITLE: CLERKS OF THE AS FAR AS THEY RELATE MAKING OF THIS PLAN	

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Paul Lee  
Katharine Rotten  
Stewart Thrasher  
Joseph Lee

304 W. Pennsylvania Ave 21204  
18122 Gunpowder Rd 21074  
18122 Gunpowder Rd 21074  
8600 Wendell Avenue 21234



IN RE: PETITION FOR VARIANCE  
W/S Gunpowder Road, 2700' NE  
of the c/l of Falls Road  
(18122 Gunpowder Road)  
5th Election District  
3rd Councilmanic District  
Joseph Gier  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 95-302-A  
\*

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 18122 Gunpowder Road, located in the area north of Armacost in Hampstead. The Petition was filed by the owner of the property, Joseph Gier, and the Contract Lessee, Katherine Potter, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners seek relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 12' x 12' shed to be located in the front yard in lieu of the required rear yard, a barn, 24' x 36', to be located in the front yard in lieu of the required rear yard with a height of 18 feet in lieu of the maximum permitted 15 feet, and to permit a side yard setback of 0 feet in lieu of the minimum required 2.5 feet for said barn. The Petitioners also seek relief from Section 427 of the B.C.Z.R. to permit an existing fence of 48" to 54" in height to be located on or near the south property line in lieu of the required 10' to 20' setback. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Joseph Gier, property owner, Katherine Potter and Stuart Thrasher, Contract Purchasers, Paul Lee, Professional Engineer who prepared the site plan, and

Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. Appearing as a Protestant in the matter was Mr. David Cleveland, a nearby resident of the area.

At the outset of the hearing, Mr. Paul Lee requested that the variance for the existing shed be withdrawn as the Petitioners intended to remove the shed and the variance was no longer necessary. The Petition and site plan were amended accordingly and the hearing on the remaining variance requests then proceeded.

Testimony and evidence offered revealed that the subject property consists of 3.1854 acres, more or less, zoned R.C. 4 and is improved with a one-story single family dwelling. In addition to the dwelling, a partially constructed 24' x 36' barn exists in the front yard. This barn was constructed on the south side property line towards the front of the property and will have a height of 18 feet upon completion. Finally, a wood fence exists in the front of the property, encompassing the entire front yard. This fence runs across the front of the dwelling and down the north side property line adjacent to the macadam driveway, across the front property line at Gunpowder Road, and back along the south property line to its beginning. The fence is roughly 48" to 54" in height. In addition to these improvements, a 12' x 12' shed exists on the property. As noted above, the Petitioners intend to remove this shed and thus, the variance requested for this particular structure is no longer necessary.

As to the remaining requests for variance, testimony revealed that the Petitioner entered into a contract to lease the subject property to a tenant who had the option of buying same at a later date. While the tenant resided on the property, he erected the fence and began construction of the subject barn. Shortly after he commenced construction, Mr.

David Cleveland, who resides nearby at 18126 Gunpowder Road, filed a complaint as to the location of the barn, and subsequently, the tenant moved out of the property. In February, 1995, the Petitioner entered into a Contract of Sale with Katherine Potter and Stuart Thrasher. The Contract Purchasers wish to complete construction of the barn which they intend to use for bee-keeping and for the storage of lawn and garden tools. On behalf of the Petitioners, Mr. Paul Lee testified that the subject property is rectangular in shape, approximately 900 feet deep and 150 feet wide along Gunpowder Road. He stated that due to the topography of the land and certain rock outcroppings that exist in the rear yard, the front yard location is the most practical for the subject barn. Mr. Lee testified that the elevation of the property changes from approximately 555 feet at Gunpowder Road to a ridge on which the house sits at an elevation of approximately 625 feet. Entered into evidence as Petitioner's Exhibit 3, is a topographical map of the property depicting the elevation changes of this lot. Mr. Lee also testified that the septic reserve area for this lot is located in the front yard which further restricts the location of the barn. Testimony indicated that the barn has been situated in an area where the property is fairly level and in what the Petitioners believe is the most practical location. Further testimony revealed that the barn is located on the property line farthest removed from the Protestant's property, which is actually two doors away from this site. It should also be noted that the former tenant attempted to construct this barn without the benefit of an approved building permit from Baltimore County. Following receipt of the complaint filed by Mr. Cleveland, the Petitioner was advised to file the instant Petition to legitimize existing conditions on the property.

Testifying in opposition to the relief requested was Mr. David Cleveland, who resides north of the subject site at 18126 Gunpowder Road. Mr. Cleveland is not opposed to the fence height or location of same, and stated that the fence is attractive and has a positive effect on the property. Mr. Cleveland was also pleased to see that the Petitioners intend to remove the shed and no longer seek a variance for same. However, he is opposed to the subject barn being located in the front yard as shown on the site plan. He testified that this barn is visible from his property and he objects to its obstruction of his view. Mr. Cleveland believes the barn should be moved further back on the property, preferably to the rear yard, and that a better location could be found for this barn. Further testimony revealed that Mr. Cleveland's home also sits atop the ridge that exists in this area and that this affords him the ability to see this barn, while the barn is not visible to motorists travelling along Gunpowder Road. Given the steep grade of land in this vicinity, it is true that the barn is visible to neighbors located north of the subject site.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, I am inclined to grant the relief requested. It appears that the location of the subject barn is the most practical, given the topography of the land and the location of existing improvements thereon. While Mr. Cleveland argued that he could see the barn from his home, I am not persuaded to deny the variance on this basis alone. To require strict compliance with the zoning regulations would result in practical difficulty and unreasonable hardship for the Petitioners and unduly restrict the use of the land. In the opinion of this Deputy Zoning Commissioner, the relief requested will not cause any injury to the public health, safety or general welfare and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9<sup>th</sup> day of May, 1995 that the Petition for Variance seeking relief from Sections 400.1 and 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 24' x 36' barn with a height of 18 feet to be located in the front yard on the side property line with a 0 side yard setback in lieu of the required rear yard location, maximum height of 15 feet, and minimum side yard setback of 2.5 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 427 of the B.C.Z.R. to permit an existing fence of 48" to 54" in height to be located on or near the south property line in lieu

of the required 10' to 20' setback, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Inasmuch as the Petitioners withdrew their request for variance for the 12' x 12' shed, said shed shall be removed from the premises within sixty (60) days of the date of this Order.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

THK:bjs

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 9, 1995

(410) 887-4386

Francis X. Borgerding, Jr., Esquire  
409 Washington Avenue, Suite 600  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
W/S Gunpowder Road, 2700' NE of the c/l of Falls Road  
(18122 Gunpowder Road)  
5th Election District - 3rd Councilmanic District  
Joseph Gier - Petitioner  
Case No. 95-302-A

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

THK:bjs

cc: Mr. Joseph Gier  
18122 Gunpowder Road, Hampstead, Md. 21074

Ms. Katherine Potter  
800 Cedarcroft Road, Baltimore, Md. 21212

People's Counsel

File



**Petition for Variance**  
to the Zoning Commissioner of Baltimore County

for the property located at 18122 Gunpowder Road  
which is presently zoned RC-4

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 400.1 & 400.3 of the B.C.Z.R. to permit an existing 18' high barn (24' x 36' under construction) and shed (12' x 12') to be located in a front yard in lieu of the req'd. rear yard and to permit a 0' S.Y. setback and an 18' height for the barn in lieu of the req'd. 2.5' & 15' (A var. of 2.5 x 3'). SEE ATTACHED CONTINUATION SHEET

a) Shape and configuration of the property;  
b) Such other and further reasons as shall be presented at the time of hearing in this matter

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser(s):

Katherine Potter

Joseph Gier

800 Cedarcroft Road

Baltimore, MD 21212

City State Zipcode

Francis X. Borgerding, Jr.

409 Washington Ave., Ste. 600

Towson, MD 21204

City State Zipcode

Office Use Only

ESTIMATED LENGTH OF HEARING

Unavailable for Hearing

Next Two Months

REVIEWED BY: *THK* DATE: *3/5/95*

ORDER RECEIVED FOR FILING  
Date *5/9/95*  
By *THK*

ORDER RECEIVED FOR FILING  
Date *5/9/95*  
By *THK*

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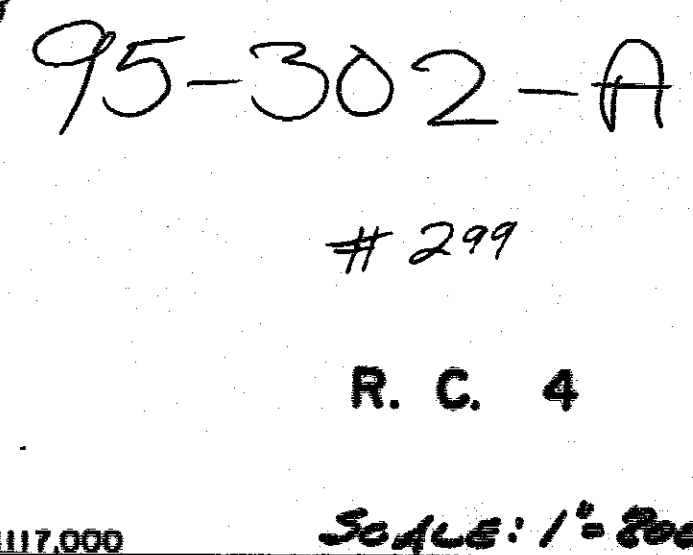
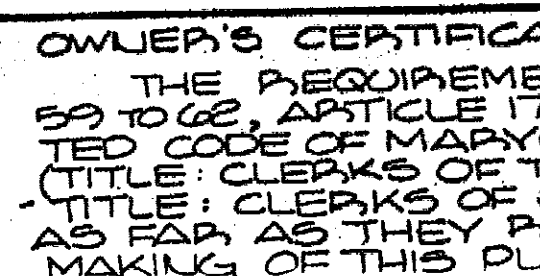
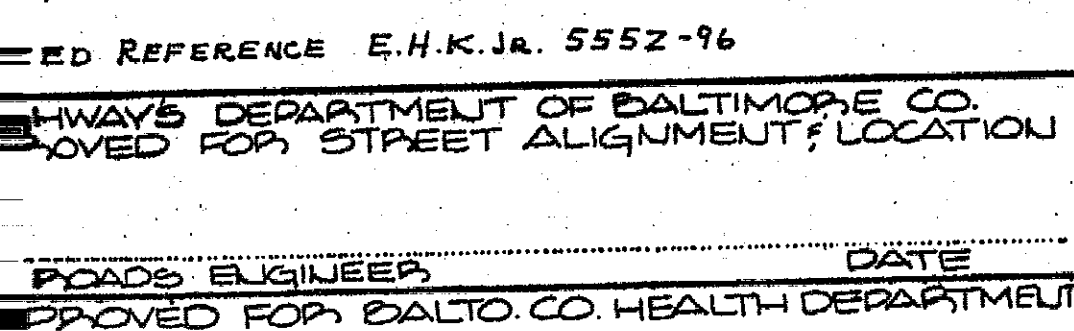
















BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.  
MARTINSBURG, W.V. 25401

SCALE  
1" = 200' ±

DATE  
OF  
PHOTOGRAPHY  
JANUARY  
1986

LOCATION

NORTH OF  
ARMACOST

SHEET

PETITIONER'S  
EXHIBIT NO. 2  
30-1